

Interim Highlights

Agriculture & Agri-business

November

EHD Virus in Cattle

Committee members heard from the state veterinarian and a biologist from the Department of Natural Resources on the deer disease, Epizootic Hemorrhagic Disease, also known as EHD, during November's interim meeting.

The state veterinarian addressed the members on the discovery of EHD in cattle this past year and the possibility of dealing with long-term affects of the virus.

EHD, first recognized around mid-August, occurs in five to ten year cycles. Since an outbreak only occurs in cycles, little is known about the virus or how to treat it.

There is some speculation that EHD may be a cousin to the blue-tongue disease, but the veterinarian stresses that this summer's outbreak was not blue-tongue.

Between 69 and 71 head of cattle were tested for EHD in the state with 54 testing positive.

Although cattle rarely show symptoms of EHD, it can cause lameness.

It is unclear if there will be ongoing problems associated with the outbreak of EHD in cattle. The veterinarian mentioned some of these possibilities such as malformed calves, but will not know for sure until those cows infected with EHD calve.

By next year, there will be a better idea as to how damaging the EHD virus was to the cattle.

A biologist from the DNR discussed more in depth about the disease itself and the affects it has on the deer population.

EHD, first confirmed in 1955, is known as a deer disease due to the high mortality rate deer suffer during an outbreak. During this outbreak alone, between 30 and 60 percent of the state's deer population was infected. Even though a large percentage of deer became infected, not all perished from the virus.

Interim Meeting Schedule & Agendas

Please visit West Virginia Legislature's Web site:
<http://www.legis.state.wv.us/committees/interims/intcomsched.cfm>



Winter sets in at the State Capitol as lawmakers prepare for the 2008 Regular Session, which begins January 9th.

—photo: Martin Valent—

West Virginia's first documented outbreak of EHD occurred in 1981, and was reported in five counties. Since then, outbreaks have been reported in 1988, 1993, 1996 and 2002.

The virus is not contagious, and is transmitted from one animal to another. In the free-ranging populations of deer, a biting midge bug transmits EHD. When the temperatures fall below freezing, these tiny insects die and the EHD outbreak usually ends.

In other committee business, members voted on a rainy day fund of \$1 million to the Department of Agriculture for emergency use.

December

Rainy Day Fund & Cervid Farms

Members were given appreciation by the Department of Agriculture Commissioner on the \$1 million rainy day fund the committee asked the Governor to include in his new budget during last month's interim meeting.

The agriculture commissioner told the committee that the funds would be used only in case of an emergency. During this past spring alone, an emergency scare of the avian influenza faced the department and costs reached \$440,000.

When an emergency occurs the agriculture commissioner stressed the importance of paying employees at the labs for the overtime hours they spend on fixing the problem.



The commissioner also discussed the two major labs in the state used to test livestock, the environment and food.

The Moorefield lab, located in Hardy County, has been completely renovated and updated. The work that used to take one to ten hours can now be done in four. The lab deals mainly with livestock and environmental testing.

The second lab, located in Charleston, tests food products and deals with pesticides and food recalls. The commissioner stated to the committee members that the Charleston lab, a 50-year-old military barracks, is in need of renovation.

The commissioner also mentioned the federally funded mobile lab that is in the state. Although the lab is located in West Virginia, it can be used by other states in case of emergencies. It is a fully operational lab, and is being utilized.

Committee members also heard from a biologist for the Wildlife Resources Section of the DNR on bio security at Cervid Farms.

There are currently 35 cervid farms in the state of West Virginia. These privately owned deer farms are used by the DNR to monitor and prevent chronic wasting disease (CWD).

All deer on the cervid farms are tagged and identified until their death.

The biologist for the DNR stated to the committee the change in defense requirement of ten foot high fences instead of the current eight foot fences to be placed on all deer farms in the state. The reason for the change of the fence height is a safety precaution for the deer, since, according to the biologist, a deer can jump eight feet.

Broadband - Select Committee E

December ETOPIA

This select Committee has been hearing reports and presentations regarding SB748, "The Electronic Telecommunication Open Infrastructure Act", (ETOPIA). The committee has been sent a copy of the draft bill as well as the abstract of the draft bill to review and make recommendations prior to the January Interim meetings. Staff counsel reviewed portions of the bill in December and presented the committee with the changes due to concerns from the November meeting.

The bill amends the current code section establishing the powers and duties of the state's Chief Technology Officer

(CTO) and seeks to authorize the CTO to establish a surplus computer donation program and to study the recycling of obsolete technology.

The bill also creates a new article of the code, "The Electronic Telecommunication Open Infrastructure Act", (ETOPIA). The Act is in anticipation of making broadband Internet access available all over West Virginia. It includes provisions for surveys and mapping of areas that do not currently have broadband access. It is anticipated that a private nonprofit facilitator would work with providers to provide access statewide by the year 2010.

Children, Juveniles & Other Issues, Select Committee A

November CPS and APS

Two proposed bills were presented to committee members by legislative counsel during this month's Select Committee A interim meeting.

The first proposed legislation would give personal immunity from civil liability for Child Protective Services (CPS) and Adult Protective Services (APS) workers for acts, errors or omissions that occurred on the job.

Committee members chose to hold the proposed legislation over until the January interim meetings so that further information could be collected on the bill.

The second piece of proposed legislation would provide protection for any person employed by the West Virginia Department of Health and Human Resources (DHHR) by making it a criminal offense to commit malicious assault, unlawful assault, battery or assault upon the DHHR employee.

Committee members wanted the proposed legislation further worked on before passing it to the full Legislature.

December APS and CPS

Select Committee A members moved forward two proposed pieces of legislation and one resolution during the December interim meeting.

The first piece of proposed legislation grants personal immunity for employees of Child Protective Services (CPS) and Adult Protective Services (APS) while performing employment related duties within their official capacity.



A proposed resolution was moved forward to the 2008 Legislative session on the implementation of continued salary scale adjustments for structured pay increases for CPS workers. This resolution would enable the Department of Health and Human Resources (DHHR) to hire highly qualified individuals for the CPS positions.

The second piece of proposed legislation that moved forward with amendments creates increased criminal penalty to anyone who commits malicious assault, unlawful assault, battery or assault upon CPS and APS workers.

Foster Children and Equal Parenting

Committee members also heard from the director of Foster Families Treatment Association (FFTA) and the state director of Men and Women Against Discrimination.

The director of FFTA presented information to the committee members on the state foster care system.

According to the FFTA director, there are five things every child needs: a caring adult, a safe place, a healthy start, a marketable skill and learning to be a caring adult.

These are what the FFTA strive to provide for the foster children that come into their care. However, West Virginia has not achieved substantial conformity in any of these areas. That is why the FFTA has created a plan that is phased in over a four-year period.

The plan calls for a restructuring of the child welfare system for Child Protective Services involved children and family, which would include adoption, family foster care and family preservation and case management.

FFTA is also requesting for the first year, the establishment and legislative mandate of a Child Welfare Planning Act. The act would set time frames and implementation of the proposed plan.

State director of Men and Women Against Discrimination (MWAD) discussed equal parenting as important for children's welfare.

MWAD, once known as Men Against Discrimination (MAD), focuses on discrimination placed upon men in the family court system and the affect is has on their children's welfare.

Some of the statistics presented showed that children who grow up in fatherless homes were more likely to: have behavioral disorders, commit suicide, run away and drop out of school than those children who grow up in a two parent home.

The director of MWAD also stressed the importance of House Bill 2943 which died in committee during last session. The bill relates to the Joint Parenting Act and promotes frequent and continuing physical contact with both parents under joint legal and physical custody arrangements.

Economic Development, Joint Commission on

December Geologic Sequestration

Members heard various presentations regarding carbon sequestration economics and legislative issues during the December interim meeting.

Project manager from the Mingo County Redevelopment Authority gave an overview of geological sequestration issues

The first issue discussed was the assumed advances in reducing carbon emissions into the atmosphere including the use of renewable resources and nuclear energy. Although these advances would reduce the carbon emission, more needs to be done through gap technologies such as carbon capture and disposal, advanced transportation and biotechnologies.

Even with the responses to carbon dioxide reduction, data shows that the problems will not quickly disappear. It could take hundreds of years for carbon dioxide stabilization. Some promote the use of methods that would reduce carbon emissions so that the stabilization process can occur.

The proposedly least costly and effective short-term method is geologic sequestration, which extracts carbon from natural gas, oil and coal. The carbon is then returned into the Earth.

The Director of the Division of Mining Reclamation from the WV Department of Environmental Protection (DEP) gave a brief summary on their goals regarding geologic sequestration.

Geologic sequestration is very new and untested, and the state of Texas is currently conducting an experimental project. It is uncertain if carbon emissions can remain underground, contained and continuously monitored - all while protecting the ground water supply. The collection of data from Texas would give insight into the positive and negative aspects of this project.

Denbury Resources Inc's vice-president of Reservoir Engineering informed the committee members of the carbon



dioxide pipeline dilemma, carbon capture and storage, and issues and potential solutions the company has dealt with.

Denbury is the largest oil and gas producer in the state of Mississippi. They currently operate seven active carbon dioxide enhanced oil recovery projects, and inject over 23,000 tons of carbon dioxide per day.

The company currently operates approximately 300 miles of carbon dioxide pipeline. Total cost for a 450 mile pipeline would be around \$750 million. This includes a two-year construction timetable, excludes the cost for carbon dioxide and the power to compress it.

Enhanced oil recovery is the lowest cost option for sequestering carbon dioxide emissions and the only method that can be utilized now according to Denbury Resources Inc.

A representative from the Interstate Oil and Gas Compact Commission (IOGCC) presented a review of model sequestration to the committee members.

IOGCC, a congressionally ratified interstate compact formed by governors in 1935, serves two purposes: to conserve the nation's oil and gas resources and to protect human health and environment.

Geological storage of carbon dioxide is considered one of several viable methodologies for reducing carbon dioxide emissions into the atmosphere. IOGCC feels that carbon dioxide issues should be treated under resource management frameworks instead of waste disposal frameworks. The commission also feels that it is highly important for the public to actively participate in the reduction of carbon dioxide. Integration of these issues would create a three-stage unified regulatory framework.

There are currently four states developing regulations using the draft versions of model regulations.

Education - Joint Standing Committee on

November Drop Out Prevention & Subcommittee Reports

A spokeswoman from "Communities in Schools", a national non-profit stay-in-school organization, addressed the Joint Committee on Education relative to the organization's participation in Greenbrier County.

Established in January of 2004, the organization mobilizes resources of the community to help youth succeed in school.

According to the spokeswoman, Greenbrier County is creating a community that brings existing resources, services, parents, and volunteers into a school.

Noting that nearly 6,500 students do not graduate with their peers in West Virginia, "Communities in Schools" is incorporated to serve six counties: Greenbrier, Summers, Monroe, Fayette, Nicholas and Pocahontas. Currently, Communities in Schools of Greenbrier County (CISGC) provides individual case management services to 152 students attending Eastern and Western Greenbrier Middle Schools and Greenbrier East and West High Schools.

Students are referred to the program by school counselors who may determine a pupil could use some assistance in learning and socializing situations. While the assistance comes through 59 trained community volunteers and a mentoring partnership with first and second year medical students from the West Virginia School of Osteopathic Medicine, CISGC has three full-time paid staff and has one AmeriCorps VISTA Volunteer position, which is currently not filled.

The workshops include instruction in anti-bullying, conflict resolution, organizational skills, after school programs, life skills, post secondary education and math and science enrichment.

Funding for CISGS comes from the Greenbrier County Board of Education, the Greenbrier County Commission, Safe and Free Drug Communities and a variety of private foundations. With the success of the program (2006-2007 school year - 3 of 178 failed to be promoted to the next grade level), the organization is seeking additional support from the Legislature.

At the close of the meeting, lawmakers received reports of Education subcommittees.

LOCEA

November WVU Institute of Technology

A representative from the West Virginia University Institute of Technology addressed LOCEA in November about the school's progress of its merger with WVU. He said non-academic offices have been integrated with the Morgantown campus, although there were still some personnel and logistical concerns to take care of before integration could be considered complete. The integration efforts, he said, do not undermine the school's academic integrity, as all academic



programs are still maintained on campus. In addition, student affairs services were still administered on campus.

In response to questions about adding technology-related education programs, the speaker said similar programs throughout the state are below full capacity. He said it was not financially prudent to establish such programs if others are not even full. He added that K-12 education would be better served by offering competitive salaries to teachers rather than additional teaching programs.

December CURE

At the following month's meeting, the Chancellor of the Community and Technical College System (CTCS) updated members on the progress of Pierpont Community and Technical College. The college has failed to meet many of the goals set forth in its compact, he said. According to statistics provided to the committee, the college is well behind its compact goals in terms of enrollment, associate degrees conferred and developmental education progress. Comparing Pierpont to the rest of the CTCS shows the school lagging behind other state community and technical colleges. However, the school, the chancellor noted, has met or exceeded several of its goals regarding workforce development.

Also at its December meeting, the commission received a draft report from the West Virginia Consortium for Undergraduate Research and Engineering (CURE). The consortium consists of academic administrators from Marshall and WVU as well as community professionals and the superintendent of the Department of Education. CURE was created by the Legislature in 2006 to study issues related to improving science, technology, engineering and math (STEM) instruction and research opportunities in the state.

In the report, CURE concludes that West Virginia faces several unique challenges in preparing and recruiting the next generation of STEM professionals. Retention and recruitment of K-12 teachers and college professors in STEM areas were highlighted as especially difficult goals due to competition from other states. It also noted that higher education engineering and research programs have the capacity for continued growth and success.

Among its recommendations, the report said the state should expand advanced placement and math and science courses at high schools without adequate math and science staff. In addition, the state should consider revising how grade point average is calculated for Promise Scholarships,

so that students are not penalized for trying higher-level math courses. Another suggestion was offering pay incentives for teachers with certifications in STEM areas.

Other recommendations included allowing Promise Scholars in engineering-related programs more than four years to complete their degrees and the establishment of matching grants for the expansion of higher education research programs. The chair of the consortium said its final report will be issued in January, although it is doubtful that much will change from the draft.

Finally, the commission heard from the presidents of several public universities to explain their graduation and retention statistics.

The president of Bluefield State College explained that in 2001, most students were enrolled in a two-plus-two program, in which students were placed in a two-year associate program with the option of extending their education for another two years in order to receive a bachelor's degree. In 2003, a separate community and technical college was created as an offshoot of Bluefield State, which emphasized its four-year programs. As a result of this, the president said most 2001 cohorts, which are used to determine graduation rates, were counted as being enrolled in an associate degree program. The president said to get a true sense of the college's graduation rate, one must add the bachelors and associate cohorts together. In this calculation, he said the school does much better compared to the peer average.

The interim provost of Fairmont State University said the university has an above peer average graduation and retention rates. In addition, the provost pointed out that the university has among the best graduation rates for low-income students, as measured by the number of students receiving federal Pell grants.

The president of Glenville State College said a significant portion of its students receive Pell grants. Although the college was ranked low among its peers, the president said the rating should take into account the significant number of low-income students, who are often less likely to graduate than higher-income students. He also highlighted the school's "hidden promise" scholarship, a \$1000 scholarship available to one student from each of the high schools near Glenville. The purpose of the scholarship is to identify students with the intellectual ability to attend college but lack the financial or parental support to do so.

The president of Shepherd University said the school has accomplished above average graduation and retention rates compared to its peers despite having lower funding



Education Subcommittee A - Public Education

November

School Transportation

Members of this subcommittee in November heard a presentation claiming that, according to state officials, West Virginia students are spending less time on school buses. However, the state's youngest children are still spending more time on buses than state regulations allow.

A state director of school transportation told lawmakers that since 2002, when the state began keeping records, the number of children riding buses for extended periods has dropped. That number, as high as 8.8 percent at one point, has gone down to 7.4 percent.

Under state regulations, elementary school children are supposed to ride no more than 30 minutes to and from school, while middle school students are allowed a 45-minute bus ride to class and high school students can ride for up to an hour.

The representative also said about 70 percent of those riding for longer than called for are elementary school children. Those first five grades, along with kindergarten and pre-kindergarten in some areas, account for 47 percent of West Virginia's school-age students.

During the same meeting a representative of WV Challenge stated that her group wants a transportation bill advocating against making young children ride long hours.

The representative's group, which advocates for rural schools, doesn't want to punish any school currently faced with extended ride times, but wants it to be major criteria before school consolidation is approved in the future. She warned the committee that 121 schools are on the chopping block, representing the number of elementary schools set to close in the state in the next few years.

She also said West Virginia already spends more on transportation than any other state and in many cases consolidation means more buses and longer bus rides.

A national study lawmakers reviewed showed the state spends \$7.99 for educating each child for each \$1 it spends transporting them. Nationally, the average is \$11.67 for each \$1 spent for transportation. The study compared students from rural areas. In West Virginia, Pocahontas County's ratio of 1.34 students per square mile is the lowest in the state.

per full-time equivalent. However, she said the school is not satisfied with being slightly above average and is working at improving both rates. She added that the university is working on establishing a connection with middle schools and high schools in the region and applauded the efforts at Glenville State.

The president of West Virginia State University highlighted that 95.5 percent of the school's students were West Virginia residents. He also said the university has recently put in place a retention task force to improve academic success. Another measure State is taking is a University Learning Skills course required for all new students beginning in 2008. The goals of the course are to familiarize students with available support services; facilitate interaction with faculty, staff and other students; and connect students with West Virginia State's history and mission. Similar courses across the nation, he said, have been effective at improving retention.

Also in December, the Legislative Oversight Commission on Education Accountability heard from School Building Authority (SBA) members who stated they will ask the Legislature early next year for permission to sell bonds to help build new schools.

A representative from the SBA said the state should invest \$16 million a year in excess lottery funds toward debt service, the money needed to pay the principal and interest on a debt.

That could create \$100 million to \$135 million every three years to renovate buildings and erect new schools. School Building Authority members expect the bond sale to continue for up to 20 years. The SBA receives \$19 million each year in excess lottery funds. The approach would help counties that are struggling to pass local bonds and keep up with the rising cost of construction.

County school leaders in West Virginia have requested about \$254 million from the SBA, five times what is available. The authority's members decided not to award projects until after the Legislature ends its regular session in March.

Also, members debated whether they should start awarding money each spring, after the legislative session, or in December. The latter was used more in previous years. The SBA representative made the case for waiting until after the Legislature has wrapped up its business. The SBA was worried that if the authority awards money after December, school leaders might miss several months of a construction cycle.



It was noted that only 11 other states have county school boards, while the remainder have school districts of varying sizes, making comparisons difficult.

Representative from the state Department of Education said that only Berkeley and neighboring Jefferson counties in the Eastern Panhandle have had growing student populations in the past 20 years. McDowell County has lost the most, about 60 percent, followed by Wyoming and Mingo.

Any attempt to solve the transportation problem would cost about \$40 million to implement and \$20 million annually thereafter. That would be roughly 575 additional bus drivers and 565 additional buses and would cover 368 new bus routes. Unfortunately, that would still leave a substantial number of students with long rides.

**December
Physical Education**

In response to Senate Concurrent Resolution 80, the WV Department of Education’s Division of Student Support Services of the Office of Health Schools provided a report on the costs and benefits of requiring daily physical education classes for pupils in grades kindergarten through 12.

According to the department’s benefit data, increased physical activities among students will result in benefits for students and society at large. The study indicates strong links between student fitness and academic achievement. It also is a proven strategy for obesity prevention. Obesity is related to the soaring costs of health care.

The report provided said that West Virginia spends \$558 million a year on obesity. The studies identified strong evidence for an inverse association between a child being overweight and academic performance. However, the authors of the study argue that childhood overweight issues are a marker, not a casual factor, of poor academic performance.

Also, according to the studies, children with lower overall fitness scores tend to have lower mean academic performance scores that children with higher fitness scores.

Data collected through the on-line School Five Year Strategic Plan platform regarding the costs of implementing physical education indicated that 436 schools identified in the elementary school category meet the requirements. Elementary schools are currently required to provide physical education at least three times a week for 30 minutes. Schools not meeting that requirement because of lack of sufficient space or staff may select an alternate plan to provide some sort of physical activity for at least 90 minutes per week.

Of the 436 schools, 301 elementary schools are on board. One hundred and thirty five not meeting the requirement cited insufficient staff; and of those, 63 indicated insufficient facilities.

Middle school data for the 2006-07 school year noted that of the 167 schools, 150 met the 2700 minute requirement and 17 did not. Those 17 schools indicated insufficient staff and, of that, 8 cited insufficient facilities.

High schools are required to provide one credit of physical education to every student and also offer a physical education elective. The credit is necessary for graduation. All 123 high schools met the requirement.

The total costs of all schools hiring adequate staff and providing facilities comes to \$144,015,000 for new positions and \$982,100,000 for adequate physical education facilities.

The non-monetary costs of providing physical education classes during the existing instructional school days would result in a net loss of time in one or more instructional areas, such as foreign language, health music, science, social studies and/or technology. According to the report, increasing physical education to four years in high school would result in using four credits, out of a possible 28 to 32 credit hours. This change may prohibit students from having sufficient opportunity to complete the graduation requirements currently prescribed in WV Board of Education Policy 2510. “This issue is of concern with educational policy makers and school administrators charged with meeting all of the federal, state and local regulations to ensure a holistic education for all children,” as stated in the report.

Education Subcommittee B - Higher Education

**November
Tuition Waivers**

The Vice Chancellor for Administration of the Higher Education Policy Commission (HEPC) and the West Virginia Council for Community and Technical College Education (WVCCTCE) addressed the community college rates, fee comparisons and mergers within that system.

In addition, he provided a report on tuition waivers and student financial aid. According to the Vice Chancellor’s report, “a tuition waiver is not much different from a scholarship or grant that covers tuition costs,” from a student’s perspective. “However,” the reports goes on, “providing a student with a tuition waiver reduces a student’s financial need and thus makes a student less eligible for other financial aid. Second,



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a tuition waiver could make a student ineligible for financial aid, like the PROMISE scholarship.”

“From the institution’s perspective, a tuition waiver requires the institution to forego revenue that it otherwise would collect to support the institution’s operational and capital needs,” the report says. The study also concludes that waivers are distributed to attract or retain a diversified student population. Graduates may also receive waivers but do so to continue a research project or to serve as a graduate teaching assistant.

Institutions establish their own tuition waiver rules as opposed to central regulations coming from HEPC or its predecessors prior to 2001. As such, far less detailed institutional data is submitted, according to the report.

The following data covers the number of students receiving tuition waivers:

- 4-year universities and colleges account for 91% of tuition waiver recipients and 85% of undergraduate recipients
- academic waivers account for 70% of undergraduate waivers
- athletic waivers account for 12% of undergraduate waivers
- 99% of graduate waivers are claimed by students attending MU and WVU
- 79% of CCTCE waivers are academic

According to the data in the report, tuition waiver expenditures have risen from \$20 million in 2001 to approximately \$45 million in 2005.

Other statistics provided indicate that 56% of tuition waivers went to out-of-state students during the 2005-06 academic year. The differential was most pronounced relative to athletic waivers.

While the 60-40 split of academic tuition waivers, which favor out-of-state students, is a significant change from 2000-01 when the split was 70-30 in favor of in-state residents. The report believes these numbers reflect the growing number of students eligible for the PROMISE scholarship.

Since tuition waivers reduce incoming revenue for the higher education institutions, the Vice Chancellor’s report included some statutory revisions. It encouraged the awarding of partial awards, clarified language regarding the caps placed on certain waivers in the higher education system and on age requirements for children and spouses of members in the Armed Forces killed in the line of duty, among others.

The Vice Chancellor’s report indicated that lawmakers should not act hastily to remove the statutory caps for all institutions until it is determined what impact this proposal may have on existing or new bonding.

Other issues the report addressed included having higher education administrative staff to:

- expand its data collection efforts so that officials could better follow how many students are actually using the various categories of tuition waivers
- not create or endorse a funding system which would reward institutions for providing waivers with additional state funding
- consider a scholarship pool, instead of mandating that institutions provide tuition waivers to various classes of deserving individuals

Also in his report, the Vice Chancellor responded to questions regarding the PROMISE scholarship program. With ideas and suggestions on better managing the program, his report indicated new legal provisions governing authority for promulgating emergency rules, which could help cure existing administrative inconsistencies.

Proposed rule changes associated with PROMISE are expected to come before LOCEA in December, lawmakers were told by the university administrator.

Considered emergency rules until they are approved by the Legislature, one would expand situations in which leaves of absences would be applied to PROMISE recipients, i.e., religious studies, volunteering, study abroad or other scenarios. Presently, a PROMISE recipient must continue his or her schooling without breaks in the overall four-year study plan.

Another proposed rule would allow the PROMISE Scholarship Board to raise academic criteria standards without obtaining LOCEA’s or Legislative approval through the rule-making process.

A third would require that a student meet PROMISE or other financial aid application deadlines no later than June 1 of each year. Presently, if a student misses a deadline, he or she has until the fall semester to secure a spring award.

Overall, the Vice Chancellor would like to raise eligibility standards, review the loan forgiveness programs, investigate community service programs to obtain loan forgiveness and look into the administration of the loan forgiveness program.

The report also outlined changes in the higher education grant programs. This type of grant provides need-based



financial aid to full-time undergraduate students attending the state's higher education institutions. Proposed changes to this program, which now helps 13,700 students, are expected to be provided to lawmakers either in January or April of 2008.

The Higher Education Adult Part-time Student (HEAPS) program was also noted in the report. This scholarship program provides need-based grants to part-time undergraduate students pursuing workforce education and to institutions providing customized training. Plans to review how the HEAPS funding is allocated are being studied as well as how well the program is meeting the needs identified in the original legislation are to be in the works in 2008.

December Student Financial Aid

At the subcommittee's December meeting, the Vice Chancellor for Administration from the Higher Education Policy Commission (HEPC) provided members with a report on student financial aid.

One of the major topics of discussion within the report is the PROMISE scholarship. The report contained two proposed statutory changes. The first would reconcile an inconsistency regarding the rule promulgation. The other would remove the sunset of the provision that provides PROMISE eligibility for West Virginia students commuting to high schools out of state and to students of West Virginia military personnel serving overseas. Currently, that provision is set to expire on June 30, 2010. The report said very few students are receiving financial aid through this provision and making them permanent would not have a major financial impact on the state.

The report also contained a number of rule changes that would be presented to the HEPC and the Legislative Oversight Commission on Education Accountability. One such proposed change would allow leaves of absence for volunteer opportunities, study abroad, participation in a program directly related to the pursuit of a student's academic goals, and extreme financial hardship. Another proposal was to allow the PROMISE Scholarship Board to raise the ACT and SAT score requirements without legislative approval.

There were several other issues with PROMISE addressed in the vice chancellor's report. One was eligibility standards. An increasing number of students are qualifying for PROMISE, the report said, creating a major financial impact. Raising test score requirements would reduce the number of scholarships the state would have to grant.

The report also addressed the possibility of operating PROMISE as a forgivable loan program, a suggestion that has been offered by lawmakers. However, the report noted that making such a change would drastically alter the nature of PROMISE. One issue is the potential decrease in utilization. According to the vice chancellor, a survey of the first class of PROMISE scholars showed that only 35 percent said they definitely would not have accepted PROMISE if it had been a forgivable loan.

The vice chancellor highlighted several other concerns about moving to a forgivable loan setup. Administrative costs for the state's forgivable loan programs are typically four times higher than for the current PROMISE scholarship, he said. The usual basis for forgiveness – requiring students to work in the state for the same number of years that they received the loan – would depend on the availability of jobs in the state and could have unpredictable results. An alternative would be to allow the use of community service as a basis for forgiveness, the speaker said.

Another program discussed in the report was the Higher Education Grant Program. This is a need-based grant for full-time students at in-state schools, both public and private.

The report contained a proposed statutory change to allow legal resident aliens to qualify for the grant. It also proposed the same extension of eligibility to commuting students and children of military personnel as the PROMISE scholarship. Possible rule changes included the elimination of an application separate from the Free Application for Federal Student Aid (FAFSA).

The vice chancellor noted that his staff is working on moving to a sliding-scale or tiered approach to determine the amount of the grant based on need. Currently, all students receive 75 percent of tuition and fees. There are also proposals his staff are working on to award grants to students who miss the March 1 FAFSA deadline.

The report also contained information on the state's existing forgivable loan programs: the Underwood-Smith Teacher Scholarship Program; the Engineering, Science and Technology Scholarship Program; and the Medical Student Loan Program.

The Underwood-Smith scholarship is a forgivable loan available to undergraduate and graduate students pursuing teaching degrees and careers in any K-12 grade level at a public school in West Virginia. The Engineering, Science and Technology scholarship is a similar loan for students pursuing degrees and in-state careers in those fields. The only proposed statutory change for those two programs was to



change the names to reflect the fact that they are forgivable loans and not scholarships.

The Medical Student Loan Program is a forgivable loan available to medical school students who want to practice in underserved areas and specialties in West Virginia. The report proposes increasing the loan amount that may be forgiven from \$5,000 to \$10,000, a change that must be made statutorily. This would make the program consistent with the increase to the loan amount made in 2005. The increase in the forgiveness amount was contained in House Bill 2558, a 2007 Regular Session bill that was vetoed.

Education Subcommittee C - Public School Finance

November

Transportation Costs, Special Education & ESL Funding

During their first meeting of the month, members heard a report from the director of the Bureau of Business and Economic Research (BBER) regarding the differential allowance rates of West Virginia counties for student transportation expenses based on their student population density per square mile.

Some of West Virginia's counties are urban areas, but many are rural. Transportation costs in rural school districts are higher because of the longer distances buses have to travel to reach each child, yet the rural districts spend less on transportation costs due to the make-up of the state aid formula.

A draft proposal was presented to the committee members on revisions to the current state aid formula. One of the revisions would directly affect school transportation. The proposal would provide additional funding to counties whose students live farther apart.

Each county would be placed in one of four groups (sparse, low, medium and high) according to the density of the student population. Sparse counties include those with less than five students per square mile; low counties have at least five students per square mile but less than 10; medium counties have 10 students but less than 20 and high counties have more than 20 students per square mile. About 30 of the state's 55 counties would be categorized as either sparse or low.

Another change in the proposed bill would define the positions of counselor, school nurse and technology system specialists as "student support personnel" and would be funded separately.

Special education funding would also be affected under the proposed bill. Funding for special education would be based on a county's overall enrollment, with additional allotments for those counties who demonstrate a need instead of using an overall adjusted net enrollment figure being currently used.

Overall, the proposed changes would give 52 counties in the state additional funds and are set up to begin for the 2008-2009 school year.

Committee members voted to pass the bill forward to the regular session in January.

During their second meeting during the November interims, the Education Finance committee heard a report from the Marshall University's Bureau of Business and Economic Research (BBER) vice-president regarding alternatives for addressing special education and English as a Second Language (ESL) funds.

Compared to its bordering states, West Virginia has the largest percentage of disabled students with 18 percent. Only two states have higher percentages of students in special education, Maine and Rhode Island. According to the data presented to the member, one of the reasons for the high percentage is that schools are placing more and more children in special education classes because it brings in more money into the school system. Another factor into the high percentage is due to late identification and remediation.

The study has found that 75 percent of learning disabilities can be treated by prevention and intervention. 82 percent of those disabilities are due to reading failures. There are now 42 counties in the state that are labeled Reading First schools. The purpose for the Reading First program is to establish that children from pre-kindergarten to third grade can read on their grade level. Also recommended is sound prevention, which would sharply reduce the number of children who are labeled as learning disabled. With programs and initiatives such as these, there has been a decline in students who need special education classes.

Also presented in the study was a growing trend in the number of Limited English Proficient (LEP) students in the country and in West Virginia.

An LEP student is defined as one who is three to 21 years of age, enrolled or preparing to enroll in an elementary or secondary school, and who was not born in the United States or whose native language is a language other than English.



There are currently more than five million LEP students enrolled in U.S. schools. In West Virginia, LEP students accounted for .53 percent of total enrollment for the 2003-2004 school year. The current figure has risen to .84 percent of total enrollment.

Throughout the state, eight counties are reporting enrollments of LEP students. A total of 2,359 LEP students are enrolled in West Virginia schools.

**December
Teacher Shortage**

At the December interims, a representative from the Department of Education provided the subcommittee with recommendations from the department’s Teacher Shortage Task Force.

The recommendations were divided up into short-term and long-term. Among the short-term solutions, the speaker said teacher salaries were the top priority. Another short-term recommendation involved allowing retired teachers to accept year-long substitute positions without posting the job day-to-day or reducing the teacher’s retirement benefits. Certifying the existing pool of teachers was another short-term solution, the speaker said, since this would allow more educators to teach in subjects facing shortages.

The task force offered several long-term solutions. Again, salaries were an important issue, the representative said. Improving work conditions, e.g., by providing teachers with the latest teaching tools and technology, was also a recommendation. Working with higher education to streamline certifications was one suggested way of making sure future teachers are certified. Ways to encourage more high school students to go into teaching included loan forgiveness programs and scholarships.

The subcommittee also heard from an English as a Second Language (ESL) teacher about the issues facing ESL instructors. She presented members with a position statement and other ESL information from West Virginia Teachers of English to Speakers of Other Languages (WVTESOL).

The statement urged increased funding for ESL programs in the state. Currently, the statement said, only federal funds are being used to implement federal mandates regarding ESL. However, it went on to say that these funds are meant to supplement, not replace, state and local funding.

The issue of funding is all the more important, the teacher said, because of the increase in limited English proficient

(LEP) students over the last eight years. Between 1999 and 2004, the number of LEP students in West Virginia grew 150 percent while total enrollment dropped nearly 7 percent.

The teacher emphasized that these students come from very diverse backgrounds, not only in culture and language, but education and income. This adds to the challenges associated with ESL education.

However, these challenges have their benefits, the statement noted. LEP students who become English proficient would be better prepared for college as well as for the work place. The statement also noted that LEP students who receive ESL education are more likely to graduate from high school than those that do not. For these reasons, the position statement asked state education leaders to recognize the need for reliable funding for ESL, dedicate such funding and make funding equitable across the state.

Finance Subcommittee C

**November
PEIA OPEB**

The subcommittee continued its study of the impact of Governmental Accounting Standards Board Statement 45 (GASB 45), issued in 2004 but taking effect this fiscal year. This statement required government agencies to report post-employment benefits other than retirement (OPEB) as part of their liabilities.

As the committee has heard in prior meetings, the primary OPEB in West Virginia is health care coverage provided by the Public Employees Insurance Agency (PEIA). As part of this coverage, state retirees were able to convert unused sick leave into premiums for this coverage. This practice was abolished in 2001, but state workers who were employed before July 1, 2001 are still eligible for this benefit.

In response to the liability presented by the premiums, the Legislature passed House Bill 4654 during the 2006 Regular Session. This bill created the West Virginia Retiree Health Benefit Trust Fund (RHBT) to help defray health care costs. All government entities – state agencies, school boards, county commissions, etc. – are required to pay their share into the fund based on their number of employees. Each employer is required to pay PEIA a minimum amount to cover premiums each year, with an additional annual required contribution (ARC) that may be paid or accrued. However, any ARC that is unpaid is considered an OPEB liability and must be reported under GASB 45.



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Also in November, members of Finance Subcommittee C heard about the impact GASB 45 is having on county boards of education. A representative from the Department of Education spoke about how the problem with OPEB arose. He said that prior to GASB 45, school boards could take a pay-as-you-go approach to retiree premiums, without having to report them as a liability. However, now the school boards will have to include them as a liability.

The representative recommended giving counties the options to create their own trusts, without forcing them to pay into the state trust fund. This would remove the RHBT liability from their financial statements.

An attorney for the West Virginia School Board Association expressed the group's concern over the impact that GASB 45 will have on bond ratings for boards of education. He said the liability is the same as it has always been, but is now being reported on the county level. Increases in liability can lead to lower bond ratings, which would increase costs for the school boards.

December PEIA-OPEB

During December's meeting, representatives from municipal and county organizations told the committee about what GASB 45 means for their governments. A representative from the West Virginia Municipal League echoed several of the concerns of school boards; especially as far as bond ratings were concerned.

She also expressed concern over the fact that even though most cities do not offer post-retirement benefits, retired employees are allowed to choose PEIA without any say by the city. The city is then required by law to subsidize the premiums for the retiree. She offered a draft bill that would give city governments and county commissions the choice of offering OPEB to its employees, instead of allowing the employee to choose. Such a choice, under the draft legislation, would have to be approved by a majority vote of the city council or county commission.

The director of the West Virginia Association of Counties disagreed with the amount counties are required to pay into the RHBT per employee. She pointed out that most counties don't allow the use of unused sick leave for health care. In addition, each county agency often sets its own sick leave policy, meaning there are different policies both among and within counties. For these reasons, she said counties are concerned over the computation of the \$144 per employee across-the-board ARC rate.

The West Virginia County Commissioner's Association is also concerned about this computation, its executive director said. The association that few counties have actually paid their ARC liabilities, since PEIA has told them that they are not required to do so. The counties, she said, are afraid that this liability will accrue interest. She suggested the possibility of changing the law so ARC liabilities are interest-free. In addition, counties are afraid that the OPEB liabilities will lead to a reduction in benefits for current employees.

Forest Management Review Commission

November Heating Pellet Industry

In November, the Forest Management Review Commission heard from an industry expert about a new industry that has risen from the "sins of the past" outside a Mount Hope sawmill, converting sawdust into heating pellets.

In 1991, when a company acquired an old sawmill in Garden Grounds, the Department of Environmental Protection ordered the firm to remove tons of sawdust. From there was born the idea of converting sawdust into pellets burned in special stoves in family or living rooms the committee was told. The representative stated that it's very economical to use and it's very environmentally friendly. Ninety-seven percent of the carbon is burned in the fire pot.

A pellet stove can provide roughly 8,900 BTUs, far below the amount of heat generated by coal, and the cleanliness of burning the compressed sawdust makes it more attractive than fossil fuel.

The representative also spoke about seeking relief in the severance tax, saying it puts West Virginia harvesters at a distinct disadvantage since surrounding states don't impose one.

In the last filing, he said his company paid \$670,000 in the tax, which threatens its profits and, in turn, its employment base of 425.

December Hardwood Industry

In December the commission heard that unfair competition abroad and domestic taxes are combining to hamper the hardwood industry in Appalachia.

A representative of the Appalachian Hardwood Manufacturers Association said that furniture plants are closing in North



Interim Highlights

Carolina, and within the past seven years, some 45,000 jobs have been sacrificed. He also stated that foreign countries have almost no regulations, no OSHA and mostly no workers' compensation.

Also harming the industry is the rampant illegal logging that occurs daily in Indonesia and Russia. He told one anecdote making the rounds is of shady dealers turning over burlap bags stuffed with dollars to police officials while they wink at such operations.

Lawmakers were also told that pressure also comes from groups that have been formed to resist logging operations on the premise that forests are vanishing, a claim that simply doesn't square with the facts, the representative stated. In 1953, for instance, this country produced 414 billion board feet of lumber, while the figure a year ago was 1.05 trillion.

Government Operations, Joint Committee on & Government Organization, Joint Standing Committee on (Joint Meeting)

In meetings during the November and December interim meetings, this joint committee continued hearing sunset reports regarding state agencies pursuant to Senate Bill 187.

November Substance Abuse Issues

During a joint meeting of the Government Operations Committee and the Joint Standing Committee, members heard from the chair of West Virginia Partnership to Promote Community Well Being, director of West Virginia Prevention Resource Center and the president of the Healing Place in Louisville, Ky. regarding issues on substance abuse during this month's interim meeting.

The Director of West Virginia Prevention Resource spoke to the committee about the WV Partnership program, officially created by Executive Order in 2004, which serves as the designated substance abuse prevention and intervention planning body. The Partnership program also serves as an advisory board for West Virginia's \$11 million in government grant funds.

The WV Partnership program is in the process of building a strategic system for state, regional and community prevention partnerships for each of the 55 counties. Currently 53 of the 55 counties have taken part in the prevention program.

Other accomplishments of the WV Partnership program are: The establishment of the Underage Drinking Prevention Workgroup, Early Intervention Program, and Prescription Drug Abuse Workgroup.

Currently, states spend about 113 times more to deal with the ramifications of substance abuse than they do to prevent it. Of every dollar spent, only four cents are used on prevention, treatment, and research.

The estimated cost of substance abuse in West Virginia alone is over \$1.8 billion. West Virginians over the age of 18 with substance abuse problems are 182,000. The cost of substance use on an individual in WV for one year is over \$1,000.

The director's final point to the joint committee was establishing successful substance abuse prevention programs based on recognition, awareness, involvement and support – all founded on the legislature's much needed assistance.

The Healing Place president informed the committee concerning what the Healing Place was and its contribution and success not only as a homeless shelter but also as a treatment center for those who have a substance abuse problem.

Efforts by the Healing Place in Kentucky alone, have saved taxpayers more than \$7 million dollars a year on emergency room visits and other hospital related costs alone and produced a 65 percent recovery rate for its clients.

The Healing Place has been replicated by other cities around the country because it is effective.

Clients of the Healing Place have an extensive six to nine month recovery program. A 28-class curriculum for each client is given, along with having peer mentors and completion of all 12 steps of Alcoholics Anonymous.

The cost of the program is \$25 per day for clients compared to \$250 per day in treatment centers.

Replication of the Healing Place program for the Huntington area is being supported by drug treatment advocates in that area.

Department of Commerce

During the second meeting of the November Interims, the Department of Commerce presented its case to continue operation and highlighted the many function of the different divisions contained in the Department. These divisions include: the Development Office; the Division of Energy; the Division of Forestry; the Division of Labor; the Division of Natural Resources; the Division of Tourism; the West Virginia Geological and Economic Survey; the West Virginia Office of Miners' Health, Safety and Training; and, Workforce West Virginia.



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These divisions work to preserve and enhance the well-being of the citizens of West Virginia by providing a cooperative interagency system that stimulates economic growth and diversity, promotes efficient use of our abundant natural resources, and provides increased employment opportunities for all West Virginians. The Commerce Department recommended these divisions be continued.

December

Department of Military Affairs and Public Safety

In December, pursuant to Senate Bill 187, the Department of Military Affairs and Public Safety (DMAPS) presented the duties and responsibilities of their various divisions to the joint committee and also recommended that they be allowed to continue working for the state of West Virginia.

The West Virginia Department of Military Affairs and Public Safety has a three fold mission statement that encompass three fields, Military Affairs, Public Safety and Homeland Security.

Under Military Affairs the West Virginia National Guard serves a dual federal-state mission unique to the U.S. military. The distribution of soldiers, equipment and facilities across the state allows the National Guard to respond quickly and efficiently to emergencies statewide. The Guard also serves a federal mission through deployment of personnel and resources in support of US operations around the world. The state Division of Veterans Affairs assists WV veterans and their dependents in obtaining all benefits to which they are entitled, both federal and state. West Virginia has the highest number of veterans, per capita, in the nation.

Under Public Safety, several agencies work together to fulfill a mission to provide police, security, emergency management, adult correctional facilities and juvenile justice services to name a few. A government's primary responsibility is to ensure the safety and security of its citizens. DMAPS agencies are responsible for providing such a safe environment. A major component of this is the state's ability to respond to natural and man-made disasters; a role that encompasses many of DMAPS services. Agencies included in this component are: State Police; Department of Corrections; Regional Jail Authority; State Fire Marshall; Juvenile Service; Protective Services; and, the Parole Board.

Finally, the final mission of DMAPS concerns Homeland Security and includes the State Administrative Agency (SAA) which provides guidance, direction and coordination in mobilizing, organizing, and preparing the State of West Virginia for acts of terrorism and man-made or natural disasters.

The SAA develops and coordinates the implementation of a comprehensive state strategy and performs the functions necessary to carry out the mission.

Government Organization - Subcommittee A

In November and December meetings, discussion has continued regarding an assessment of the State Capitol Building's compliance with the Americans with Disabilities Act (ADA) and identifying problem areas and courses of action that have, or will be addressed.

November

Disabled Citizen Access to State Capitol

A representative for disabled veterans spoke to the committee in November about the problems and difficulties disabled persons face as they try to come to the State Capitol to speak with their representatives. Specifically, sidewalks and external access as well as travel between wings and floors and seating in the galleries are made difficult, as they are mostly inaccessible by wheelchair. Some issues cannot be rectified due to architectural limitations but reasonable accommodations are being investigated by the Department of Administration, General Services, Division of Veterans' Affairs, West Virginia Department of Administration Americans with Disabilities Act Office and the West Virginia Veterans' Coalition.

December

Maintaining the Capitol's Historic Qualities

In December, a representative of the Capitol Building Commission stated that reservation of the historic and aesthetic qualities would be maintained through oversight of the Capitol Building Commission, the Historical Preservation Section and the Archives and History Section of the Division of Culture and History. This issue is on the CBC's radar and they are investigating possible solutions that will be good for both the disabled citizens wishing access while maintaining an aesthetic quality to the building. One suggestion was made for a temporary tarp or tent such as is used for the Governor's Mansion to protect walkers using the roof walkway or restrict access to that walkway to Legislators and staff.

Government Organization - Subcommittee C

November/December

Professional Employer Organizations

This subcommittee continued hearing presentations in November and December regarding Professional Employer



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Organizations (PEO) that are being studied pursuant to Senate Concurrent Resolution 63.

The subcommittee heard a presentation from the Office of the Insurance Commissioner (OIC) regarding PEO's. These organizations provide outsourcing of payroll, workers' compensation, human resources and employee benefits administration. It accomplishes this by hiring a client company's employees, becoming their employer of record. Then the PEO leases the employee back under contract to the original employer. This is also referred to as staff leasing or co-employment.

The Office of the Insurance Commissioner appoints a rating organization for workers' compensation insurance to the PEO, which in West Virginia, the National Council on Compensation Insurance (NCCI) has been appointed. The OIC looks forward to working with the Legislature, insurance carriers, NCCI and the PEO community as this new industry grows in West Virginia. The OIC is looking to revise the current rule, Rule 31, which oversees employee leasing to better define how PEO policies can be handled. Rule 31 was last revised in December 2005.

The committee continues to study this matter and also heard from a representative representing the industry who is excited to be in West Virginia and pledges to work with the Legislature and the OIC to help answer any questions regarding this industry and its role in West Virginia.

Health - Select Committee D

November

West Virginia's Health Care System

Appearing before the select committee on health was Kenneth E. Thorpe, a professor of health care policy and health economics for the Rollins School of Public Health at Emory University in Atlanta, Georgia. He has been commissioned by the Joint Committee on Government and Finance to act as a health care reform consultant to the committee. Conducting his study of West Virginia's health care system over the next two years, Thorpe is expected to provide lawmakers with realistic reforms that could be implemented by the 2009 Regular Session.

Affordability, quality and access are the three key components needed to develop an efficient and effective "road map" for health care reform, the professor told lawmakers. They are the framework of a health care reform formula, which should be put together in a consensual and flexible manner regardless of political persuasion.

According to the health care policy expert, the three components must be evaluated first and foremost before devising comprehensive health care reform.

While studies have determined that 96% of the voting population has health insurance, both employers and workers are concerned about premiums, payments, types of coverage and - of losing it. Insurance coverage also is exceedingly administratively complex. Affordability is the number one issue.

The second component, quality, is brought about through an effective delivery system. Some individuals under-use it by not following up on medical advice for chronic illnesses, such as diabetes and heart disease. While others over-use it by seeking emergency room care for sickness that can be treated at home.

Access, the third component, provides an additional problem for health care reform. By nature of its topography, West Virginia challenges its rural residents in seeking medical attention, be it preventative or immediately necessary. As such, emergency room visitations often replace a visit to a health care provider's office adding a huge expense to the overall health care system.

Throughout his presentation, Thorpe stressed initiating discussions on overall health care reform by focusing on a broad-based collaborative study. He told lawmakers to first determine affordability factors by gathering material that would clarify where health care dollars are spent.

He noted that 75 to 80 percent of all costs are directed toward chronic conditions. The Emory University professor said patients with chronic ailments should be educated on clinically managing their diseases. Of all non-traumatic amputations, diabetes ranks as the number one cause. He believes that if patients managed their diets, took appropriate medications on a regular schedule and exercised in accordance to the treatments prescribed, fewer people would lose limbs.

He also stressed the significance of primary care. Health care providers should have access to technology which would enable them to better communicate with other physicians, hospitals and pharmacies to eliminate trips by one patient to several facilities and treatment by several providers, each not being totally aware of tests already taken and medicines previously prescribed. The health care reform expert said many technical solutions have been devised which could assist with pain management and reduce treatment costs.

West Virginia also has experienced a rise in the obesity rate, which has doubled in numbers in the last two years. Not



enough attention has been directed toward preventative steps, such as changes in lifestyles. Thorpe believes health care habits should be promoted in schools, in workplaces and in communities as a whole.

Overall, he recommended the development of a state-of-the-art, next generation, and integrated delivery model. All West Virginians should have the same manner of treatment based upon prevention, management and delivery of services supported by an integrated medical information system.

He believes West Virginia's size and commitment provides the state a huge opportunity to develop a health care delivery system envied by the nation.

December Subcommittee Recommendations

Committee members heard from the chairs of the Oral Health and Certificate of Need subcommittees.

One of the recommendations presented by the Oral Health committee was the need for an office of oral health with a full time director within the Department of Health.

Other issues discussed in the Oral Health subcommittee included: designation tax, preventative health care for all West Virginia residents, increase in number of oral health providers in the state and prohibit sales of all sugary snacks in schools.

The motion to hold over the Oral Health subcommittee for next year was passed by the committee.

The Certificate of Need subcommittee chair told the members that there were no recommendations to present due to the realization of the many complexities and the conflicting data they were presented by various groups and organizations

Committee members voted to hold the Certificate of Need subcommittee over to next year on the request of the Certificate of Need chair.

Health (Sub. Com. on Certificate of Need) - Select Committee D

November Certificate of Need Support

General Counsel of the WV Chamber of Commerce told lawmakers the state chamber supports the continuation of the Certification of Need (CON) program.

Information provided regarding the Chamber's policy said, "rising health care costs directly affects an employer's ability to provide affordable health insurance coverage... the CON program is designed to avoid unnecessary duplication of health care services and to contain or reduce increases in the costs of health care services. Under the existing CON program, health care providers are required to obtain a CON for certain types of new facilities or new services or to expand certain existing facilities and services."

According to the chamber's counselor, 30 states have CON programs in place, while others set some sort of cost regulation. The Chamber noted it does not want to set costs for procedures and prefers the Health Care Authority (HCA) continue its existing oversight regarding health care services and facilities.

Studies used by the Chamber consisted of the findings of automakers Daimler-Chrysler Corporation, Ford Motor Company and General Motors. Each business entity conducted surveys to determine if CON programs had impacted health care costs and coverage. Their studies concluded that states with no CON regulations have the highest health care costs while states with stringent CON regulations have the lowest health care costs.

In closing remarks, the Chamber lawyer told lawmakers, "The Chamber takes no position as to what standards should be imposed upon particular facilities and services under the CON program, but strongly encourages WV policymakers to continue the CON program as a means to control health care costs." The use of the car makers' studies satisfied the Chamber's position. The lawyer noted that free enterprise has not worked in the nation's health care system and the Chamber prefers to allow the Health Care Authority to continue to work with market forces.

The Senior Vice President and General Counsel of Mountain State Blue Cross/Blue Shield, which is the largest private health care provider agreed with the Chamber's position. The Mountain State Blue Cross/Blue Shield provider told lawmakers that the Health Care Authority serves a "huge role" in helping people and the provider is pleased with its performance regarding the CON program. He said that free enterprise may work in major market areas but does not work with WV demographics.

December Health Care Authority on Certificate of Need

In December, this committee heard from a representative of the West Virginia Health Care Authority regarding a policy that requires doctors, hospitals and other health care providers



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to receive the state's permission before buying equipment or expanding services.

Questions have risen over the certificate of need system and more recently came into the news highlighted by a battle that pitted family doctors against hospitals over who can offer high-tech imaging scanners.

The representative for the HCA stated that they consider and grant certificates of need and promised to provide the joint interim subcommittee with research supporting the policy.

She stated that there are studies on both sides of the issue but she believes, and has studies to show that the policy does not have an adverse effect on cost, that it does promote quality and that it does promote access. She also stated that overall, the studies of such regulations are not as definitive as some may have suggested because it's very hard to tease out the effect of certificate of need alone and that health care, generally, is an incredibly complex issue.

In most cases, West Virginia providers need a certificate before they spend \$2 million or more on equipment or capital improvements, add or expand services or develop or acquire new facilities.

Thirty-five other states and the District of Columbia have similar policies. The degree of regulation varies, but some states have jettisoned the practice, or replaced them with another form of regulation. The representative closed by saying that the policy serves a vital role in West Virginia and continues to hold a vital role, and now would be the wrong time to take away one of tools we use to stem the tide of rising costs.

Health (Sub. Com. on Oral Health) - Select Committee D

November Oral Health Care Access

The Oral Health Subcommittee heard from oral surgeons, family dentists and a spokesperson from the Dental Hygienist Association. The dental health care givers provided material that supported their claims that low income West Virginians do not have access to oral health care and as such, their overall health is significantly affected.

Based upon a fact sheet presented, the last across the board fee increase for dental services by Medicaid was in 1992; and in 2001, fees were increased to the 25th ADA percentile for restorative and diagnostic services but oral surgery and emergency dental services such as extraction of teeth and tumor removal were not included in this increase.

In 1998, Medicaid downgraded reimbursement of surgical extractions of teeth to the same rate as simple routine extraction of teeth. This decreased the reimbursement of surgical extractions in the state to the lowest in the nation.

Since the last fee increase for dental services by Medicaid in 1992, dental offices and oral surgical offices have had substantial increases in costs of supplies, employees, and overall overhead with no ability to increase reimbursement rates on Medicaid patients.

As such, less than 40 percent of oral surgeons accept Medicaid patients and most of those only see children. Presently, the committee was told by the oral surgeon, only three groups of dentists see Medicaid patients in West Virginia; one group in Martinsburg; WVU in Morgantown for patients 21 and under (adult patients are taken as "walk-ins"); a group in Charleston; and, Huntington provides emergency room services only.

According to the fact sheet, most patients spend two or three months waiting to have an abscess or a toothache treated. Emergency rooms provide palliative relief but no treatment of the underlying cause. Some patients require admission to the hospital for intravenous antibiotics and costly operating room procedures.

Studies have shown, according to the information provided:

- pregnant women with gum or tooth abscesses are seven times more likely to have premature babies leading to costly neonatal care
- abscessed teeth are a leading cause of infective endocarditis leading to lengthy hospital stays and even death
- untold effects and costs of abscessed teeth on diabetic patients, etc

Much of this information was presented in 2003 to the Medical Services Fund Advisory Council. The council approved the recommendation to raise the emergency and oral surgical fees to the ADA 50th percentile, but no action has been taken to date.

Also submitting information to the committee was the West Virginia Dental Association. The following abbreviated listing 22 recommendations from the group are among 22 designed to improve access to oral health care:

- increase Medicaid reimbursements paid for dental services
- identify services hygienists may provide without a dentist being present
- create expanded function auxiliaries to permit hygienists and assistants to place and finish restorations and perform



- an immediately reversible procedure including supragingival polishing under the direct supervision of a dentist
- expand the dental services provided by hygienists and dental assistants
- issue a “volunteer license” to retired dentists who provide pro bono services to low-income, uninsured persons
- increase the tax on soft drinks by one cent to fund a Medicaid dental program for adults
- cover adults for preventive and basic restorative services in addition to the current “emergency services only”

Material also provided by the dental association list solutions to achieve Medicaid coverage, such as prioritizing necessary services, eliminate burdensome administrative procedures, make parents responsible for cancelled appointments and repay loans of graduates who agree to accept certain numbers of Medicaid patients.

To support some of the findings of the WV Dental Association was the legislative chairman of the WV Dental Hygienist Association. The spokeswoman would like lawmakers to consider changing the legal and bureaucratic barriers regarding state law requiring hygienists to work under the direct supervision of a dentist.

She indicated hygienists could be more active in schools, nursing homes and other community settings in employing preventative methods of dentistry. She indicated oversight by a dentist’s general supervision could be more efficient in treating low income state residents.

Also before the committee in November was a family dental practitioner from Dunbar. While returning to a group dental practice after practicing briefly as a pediatric dentist, the spokeswoman provided case stories of children prior to school age being infected by abscesses and significant tooth decay as well as tumors.

She requested lawmakers to give great consideration to finding ways to secure more dentists’ services in treating Medicaid patients.

December Committee Recommendations

Having heard from a variety of oral health care professionals during the past months, the Oral Health Subcommittee moved a variety of recommendations in the December meeting, which will be sent to Select Committee D for further consideration.

Recorded during the meeting, the Co-chairman of the subcommittee moved to:

- Recommend that an Office of Oral health be created reporting directly to the Commissioner of Public Health. The recommendation calls for a full-time director and an advisory board to be funded by monies moved from the Division of Maternal and Child Health to the new office, unless dollars are specifically earmarked to the division. The director and the board are to create a comprehensive oral health plan for the state.

- Recommend that a letter from the committee be sent to the Secretary of DHHR and the Commissioner of the Bureau of Medical Services support the recommendation for increased reimbursement for emergency and oral surgery services which was approved by the Medical Services Advisory Committee in 2003 increasing reimbursement to the 50th percentile of average charges.

- Evaluate increased reimbursement for dentists to ensure availability of dentists to Medicaid recipients in the state. These reimbursement figures and the implications be analyzed and provided to the Legislative Health Committee chairmen for consideration in the upcoming budget process.

- Support legislation to create a volunteer dentist license similar to the volunteer physicians license to permit retired dentists to provide free services when possible.

- Recommend the re-authorization of the WV Neighborhood Investment Program and an increase from \$2 million to \$4 million in available tax credits. According to the motion, this increase in tax credits will provide additional incentives to physicians, dentists and other professional volunteers caring for the uninsured, low-income working poor at the free clinics and other service providers who serve the same population.

LOCHHRA

November Pharmaceuticals

Committee members were updated on the Office of the Pharmaceutical Advocate during this month’s interim meeting. The office’s acting advocate presented information regarding the advertising reporting rule status and other issues brought forth to the West Virginia Pharmaceutical Cost Management Council.

Under the advertising reporting rule, the council collects pharmaceutical advertising data. The initial data collected



is from July 1, 2007 to December 31, 2007. Advertising data collection would enable West Virginia to determine the extent of advertising costs. This would enable West Virginia to effectively purchase drugs.

All drug manufacturers whose prescription drugs are dispersed in the state must report on the type of advertising used and the total amount spent. A company or pharmacy must list the name of any advocacy or patient support groups, who gave gifts, grants or payments totaling \$10,000 or more for the purpose of advertising prescription drugs.

The pharmaceutical advocate also reported on the two 340b pharmacies opened this year in Grafton and Weirton, along with the desire to open another pharmacy in Pleasants county because it was an open area.

A proposal of expanding 340b pricing to inpatient drugs was also brought up, which would save West Virginia's hospitals approximately \$20 million a year.

Some other issues brought forth by the pharmaceutical advocate office were drug purchasing system of the corrections and regional jail systems, the hemophilia program and the Minnesota Multi-State Contracting Alliance for Pharmacy.

MR/DD Specialized Care and Community Placement

Program manager for MR/DD Specialized Care and Community Placement discussed with committee members what the program is and what it does.

Since 1984 the Department of Health and Human Resources (DHHR) has funded the specialized care program. It is the only accredited program in the state to place both special needs children and adults.

The program currently has 15 staff members who work from year to year contracts. These contracted employees have a degree or experience in behavioral education.

Until 1978, there were no foster homes for children who had special needs. Today, 89 children and 212 adults with special needs have been placed in foster homes.

Specialized Care and Community Placement is the difference between specialized foster care and the services of a mental institution.

The major problem currently facing the program is the need for more staff. It costs \$800,000 a year to fund the 15 full time employees. Doubling the funding would allow the program to hire another 15 full time employees.

December

Pre-Paid Insurance Project/ Diabetes Care Plan Act

President of the Health Care Authority addressed the committee on the progress report of the pre-paid Insurance project during this month's interim meeting.

The purpose of the program was to develop health care coverage for people in West Virginia that could not afford insurance.

Though it is not really an insurance program, individuals receive all services from a clinic by setting a pre-paid monthly amount that he/she can afford.

There are currently three clinics that are taking part in the monthly payment program: Northern Panhandle, Monroe and New River. Since February of this year, 350 individuals have taken part in the program.

Even though the program has grown slowly because it is not being actively promoted, the President of the Health Care Authority assured that it would be successful.

There are two more potential providers interested enrolling in the program with the goal of reaching an agreement so it can begin next year.

A representative from the WV Department of Education School Health Services presented a progress report of the Diabetes Care Plan Act to committee members.

The Diabetes Care Plan Act establishes standards for students who have diabetic needs. Individualized health care plans for students with diabetes has been in effect since 1989.

Educational tools and assistance have also been created regarding diabetes. The Office of Healthy Schools and Office of Technology developed a statewide Diabetes Health Care Plan site to assist with the quality of care, standardization, and data. A CD-ROM has also been developed called "Take Action: Addressing Asthma and Diabetes in West Virginia Schools." A certification of completion is offered for all school personnel.

Infrastructure - Select Committee C

December

Well Work Applications

At the select committee's December meeting, counsel presented members with a draft bill relating to well work applications.



Currently, when an oil and gas company applies for a permit to drill a well under private property, the surface owner has 15 days to file comments with the director of the Office of Oil and Gas. The bill, counsel said, would increase this time limit to 30 days. It would also require the director to wait 30 days instead of 15 to allow for this increased comment period. In addition, the director would be allowed to deny a permit application if the soil erosion plan or the sediment control plan do not provide for minimal disturbance of the land. The committee voted to lay the bill over until January.

Committee counsel also went over a revised draft bill concerning the Community Empowerment Transportation Act (CETA). CETA would allow counties to cooperate with other public entities, such as the Public Service Commission, to fund local highways in cases when the state is unable to do so, counsel, said. Many of the proposed changes to the draft bill relate to the removal of public-private partnerships.

One major concern expressed by members was the bill's requirement that property owners obtain a 10-year bond as a condition of receiving access to a state highway. This bond would be in the amount the Commissioner of Highways determines is necessary to compensate the Division of Highways for the cost of developing the access.

Many members said this would vest too much power with the commissioner. Another concern expressed was the lack of an exemption for individual homeowners. There were also questions over how to handle property owners who are somewhere between a major developer and an individual homeowner. With these concerns in mind, the committee decided to lay the bill over until January.

Judiciary Subcommittee A

**November
Asbestos Claims**

Judiciary A committee members listened to presentations from the West Virginia Business Coalition and the West Virginia Association for Justice, on a proposed bill that would change current law on asbestos claims during this month's interim meetings.

The proposed bill would limit certain asbestos claims so that only those individuals who currently, or in the future, are suffering impairment due to asbestos or silica exposure receive compensation for their injuries, and for other purposes.

A spokesperson for the West Virginia Association for Justice, spoke out against the proposed bill calling it a "cookie-cut-

ter" version of the current law. According to the spokesperson, under the current law, cases are handled in a timely fashion. Under the proposed bill, many lawsuits would not be heard and would favor the corporation instead of the individuals who are suffering.

Representing the other side of the argument was a member of the West Virginia Business Coalition, who believes that the proposed bill is needed in order to better protect businesses from going bankrupt due to the exorbitant number of asbestos lawsuits being filed.

According to the West Virginia Business Coalition, the proposed bill would simply make sure that suffering individuals and families continue on while businesses are instituting measures into the work environment that better protects its employees. The number of cases has risen from 21,000 in 1982 to the present case number of over 730,000, making West Virginia number one in mesothelioma cases.

The WV Business Association wants fairness and protection for both employers and employees. They also want specific medical criteria such as an x-ray, family and work history. The business association is also reporting that there is a phantom doctor writing off on numerous mesothelioma case reports.

The committee also heard from legislative counsel on new proposed legislation on workers' compensation rule-making.

**December
Workers Compensation**

During their first meeting, Judiciary A committee members voted to offer the worker's compensation bill to the Joint Judiciary committee during this month's interims.

The proposed bill revises the reporting requirements to the Legislature of the Insurance Commissioner relating to the rules, guidelines and policies regulating the Worker's Compensation market.

Judiciary Subcommittee B

**November
Farm Wineries**

Legislative counsel presented draft legislation to committee members on changes to Senate bill 712, relating to farm wineries.



Revisions and new sections to the current bill mainly deal with wine sales and clarify wineries' distributors.

Some of the revisions to the proposed bill; specifies that winery now includes farm winery unless otherwise noted, deletes the provisions that a supplier, other than a farm winery, to sell wine through a distributor

A few additions to the bill include modifying the specialty shop license to include wine tasting and sampling events with retail sales, fees for special licenses namely fair and festival licenses and direct shipping licenses available only to wineries that produce 20,000 gallons of wine or less each year.

The owner of one of West Virginia's 17 farm wineries commented on the proposed legislation, namely on direct shipping. West Virginia's farm winery owners want the ability to direct ship their product instead of going through a distributor. There was concern from them, that the new bill does not clearly establish direct shipping for farm wineries.

With the concerns from farm winery owners, the committee requested that counsel sit with the winery owners and clarify the revision to the bill and present it during December interims.

**December
Farm Winery Draft Legislation**

Members were presented with a revised bill by legislative counsel relating to farm wineries at this month's interim meeting.

During last month's interims, local farm winery owners were concerned with the draft legislation because they felt that it should clearly state that they do not have to go through a distributor in order to sell their wines. They felt that if local farm wineries have to go through a distributor, they would be forced to go out of business.

The revised bill limits direct shipping to licensed wineries including farm wineries. Any winery may now obtain a direct shipper's license.

Other changes made to the bill include; restriction on donations to political party campaign funds by wholesalers' representatives and their spouses and provision changes relating to brand registration

After the revisions to the draft legislation were presented, committee members voted on the recommendation that it go to the full committee.

Judiciary Subcommittee C

**November
Bioptic Driving**

Members were given data by the West Virginia State Police on the number of DUI arrests, broken down by state licenses, in three counties over a period of one year. Between the hours of 11:00 p.m. to 5:00 a.m., more arrests occurred. Most arrested had a West Virginia license. The counties represented in the study were Berkeley, Jefferson and Morgan.

The committee also received information regarding Drug Recognition Experts (DRE) from the National Traffic Law Center of the National District Attorneys Association.

A consultant on bioptic driving, from the West Virginia Division of Rehabilitation Services, spoke to committee members on the use of the special bioptic lenses that would be used by individuals who's vision does not meet the required criteria for driving.

The bioptic lens has two separate types of lenses that are used; the refractive or main lens, and the smaller telescopic lens that serve as a support.

These special lenses are for those whose vision is slightly below 20/50 all the way up to 20/2200, which is legally blind. When used, the lenses would improve a person's vision to 20/40, meeting the vision requirements for obtaining a driver's license.

Currently, there are 13 states that allow restricted driving privileges to those individuals who fall below the vision requirements as long as they wear the bioptic lenses.

If the bioptic lenses are approved by the Legislature, the West Virginia Rehabilitation Center would put the individuals through a three stage program

The program would consist of a comprehensive testing/intensive driver training, comprehensive driver testing and a vision-basic driving test with a passenger in the vehicle.

According to the Director of the West Virginia Division of Rehabilitation Services, there is a need for interagency cooperation and funding for bioptic driving.

The Department of Motor Vehicles (DMV) commissioner emphasized that his office's main concern was safety regarding bioptic driving. If the West Virginia Division of Rehabilitation Services provided the evaluation and training



to those individuals using the bioptic lens, the DMV would give its support.

December

Private Club Hours

Legislative counsel presented committee members with draft legislation that would change West Virginia's private club closing hours from 3:30 a.m. on weekdays and 3:00a.m. on Sunday, to everyday at 2:00 a.m.

Counsel told the members that the proposed change in hours was sent to the stakeholders, and no one stated that they had a problem with the change in the club hours.

The committee moved the bill forward to the Joint Judiciary.

DUI Laws

Draft legislation to amend current DUI laws was also presented to the members by counsel. Under the proposed bill, changes would be made to both administrative provisions and criminal penalties.

The administrative provision would encourage participation in the test and lock program and to successfully complete a safety and treatment program. The test and lock program would be offered to first time DUI offenders who have a Blood Alcohol Content (BAC) under .15 for a minimum 125 day period. In exchange, they would be given a 15-day revocation instead of the current 30 days.

According to a handout passed out to the members, the ignition interlock device is installed on a car and connected to the starter system. Before the driver can start their vehicle, he/she must blow into a Breathalyzer tube. If the ignition interlock detects alcohol above the established level, the car will not start.

The new interlock system also requires the driver to take the Breathalyzer test while driving to make sure that he/she did not begin drinking after the vehicle has started. If it detects alcohol above the limit, the vehicle will lose its steering capability, forcing a driver to stop. A violation will also be recorded on a data log.

Other administrative changes were proposed including increased periods on the interlock program under aggravating circumstances for second or subsequent DUI offenders, hearing decisions based on the arresting officer's affidavit and a mandatory BAC test for all drivers involved in a vehicular crash that resulted in death or serious bodily injury.

Some of the proposed changes to the current criminal penalties included removing the mandatory 24 hour sentence for a first time DUI and creating a new offense for those individuals with a BAC of .15 or higher.

Members concluded that there were some needed changes before the draft legislation moved forward and requested counsel to work on the changes and present a new draft during next month's interim meeting.

Select Committee on PEIA - Advantra Medicare Part D Program

November

Advantra Freedom Review

On July 1, PEIA switched more than 37,000 retirees to the Medicare Advantage plan in hopes of cutting a \$7.8 billion unfunded liability for retiree health costs in half. During the interim meetings of 2007, lawmakers have been undergoing careful review of the retiree insurance program, Advantra Freedom.

When the new retiree coverage was adopted by the PEIA Finance Board in December 2006, following recommendations of the Public Resources Advisory Group (PRAG), actuaries had projected that under the plan, about half of all retirees would pay more for health care each year, and about half would pay less, the PEIA executive director told lawmakers in November.

The Administration Secretary, who serves as chairman of the PEIA Finance Board, supported the change since he believed the board had an obligation to try to control the massive unfunded liability for health-care costs for retired public employees and teachers. He told the committee that quality health care had to be balanced with what the state could afford to pay in the future.

Effective July 1, 2007, PEIA instituted co-payments for office visits and hospital stays, with a \$500 annual out-of-pocket maximum in the switch to Advantra Freedom, administrated by Coventry Health Systems. Retirees also were switched to a new drug formulary, and certain drugs not on the formulary jumped from \$30 co-pays under PEIA to \$50 co-pays under Advantra.

Some lawmakers have expressed concern regarding the effects of the changes and continue to follow up on the situation.

To receive input and answers from the insured, a survey conducted by the Legislative Auditor's Office was directed



Interim Highlights

toward 500 randomly selected retirees who were switched to the Advantra Freedom plan on July 1. The survey drew 387 responses, for a 77 percent response rate - more than double the typical response rate for a mail survey, according to the Legislative Auditor.

Retired public employees and teachers whose health insurance coverage was switched to the Medicare Part D plan confirmed that most retirees are unhappy with the new coverage, according to survey findings presented to the committee during the November interims. Fifty two percent of respondents answered “no” to the survey question that asked whether the new Advantra Freedom plan was an improvement over their previous coverage under the Public Employees Insurance Agency.

Higher out-of-pocket expenses were cited by 60 percent of those surveyed as their biggest concern with the new coverage, while 4 percent said the biggest problem is that their health care providers will not accept the new plan.

The Legislative Auditor told the committee the results of the survey indicated the change was made too quickly, there were problems with converting from PEIA to Advantra, and retirees were experiencing greater out-of-pocket costs.

December Advantra Freedom Review

During the December meeting of the Select Health Committee, legislators heard from two retirees who shared their personal experiences with Advantra Freedom.

One individual told lawmakers that her problem of getting a certain out-of-state hospital and medical provider group to honor her husband’s new Medicare Advantage coverage may have been detrimental to his treatment. Prepped June 29 for cyber-knife surgery for lung cancer at the University of Pittsburgh Medical Center and the procedure planned to take place within 10 days, PEIA switched to a Medicare Advantage plan, which was not accepted at the medical center.

Ultimately, it took until August 1 to have her husband returned to PEIA. However, she told the committee the month’s delay weakened her husband further. He died on August 1, without benefit of the treatment.

Another Advantra Freedom recipient focused on pharmaceuticals. The retiree told lawmakers that prescribed medicines had been removed from the formulary. He indicated that the replacement medicines weren’t as effective and yet he had a higher co-pay.

At the close of the presentations, lawmakers noted they should further review formulary changes, co-pays, expeditious review of pre-approval, lower deductibles and having Advantra provide retirees with their patient’s bill of rights.

PEIA has been diligent in switching affected retirees back to a traditional Medicare/PEIA coverage on a case-by-case basis.

Pensions & Retirement, Joint Standing Committee on

November TDC-TRS Merger

The committee continued its study of the proposed merger of the Teacher’s Defined Contribution (TDC) retirement system into the Teachers Retirement System. Members of the TDC voted to merge with the TRS in 2006, but the West Virginia Supreme Court of Appeals ruled against the mandatory merger. Since the ruling, several scenarios for allowing TDC members to voluntarily move to the TRS have been proposed.

Stakeholders in the merger addressed the committee at its November meeting. A representative from the West Virginia Education Association said his group supports Scenario 2, referring to the five scenarios reported to the committee in September.

Scenario 2 would allow TDC members to join the TRS by paying a one-time make-up contribution to offset the 1.5 percent difference between the two plans’ contribution amounts. Failure to pay this make-up contribution would result in a 25 percent reduction in benefits. This was the same option used in the initial merger vote that was ruled unconstitutional. However, the speaker noted, this time the merger would be completely optional.

The West Virginia chapter of the American Federation of Teachers agrees that Scenario 2 would be the best, according to its representative. The speaker told the committee that the only way for many current teachers to have any real retirement benefits is to merge the two plans. The representative said some teachers are postponing retirement so they can have the chance to return to the TRS. The representative noted that retirement was a much more pressing issue than pay raises.

A speaker from the School Service Personnel agreed with the AFT and WVEA on Scenario 2. He emphasized that by making the merger optional, it would not be illegal.



December

TDC-TRS Merger Update

A representative from the Consolidated Public Retirement Board provided follow-up information to the committee. The representative told members that the more people who join the merger, the less it will cost the state. In the long-term, the speaker said, the two plans will cost the state about the same, but the TRS will provide better overall benefits. The speaker noted that many of the older teachers in the TDC would receive far below the \$500 per month guaranteed by the TRS. As far as the number of members who will switch to TRS, the speaker said it was difficult to predict. A lot depends on the state of the economy at the time members have the option to switch.

Regional Jail & Correctional Facility Authority,
Legislative Oversight Committee on

November

Draft Legislation Overview

At the November meeting of the Legislative Oversight Committee on Regional Jail and Correctional Facility Authority, staff counsel provided an overview of draft legislation.

Counsel first went over a draft resolution requesting that the Governor include an additional \$5 million for the Community Corrections Fund in his proposed budget. The resolution says the fund has been essential in reducing regional jail costs for local governments. The committee adopted the resolution.

The first bill makes several changes to the corrections code. It would explicitly add the Lakin, Ohio County, Beckley and Martinsburg correctional centers to the statutory list of facilities under the control of the Commissioner of Corrections. It would also explicitly allow the Commissioner to contract with the McDowell County Commission to house inmates at the Stevens Correctional Center.

In addition, the bill would make it a responsibility of all Division of Corrections employees to enforce the rules and laws necessary for the control and management of correctional facilities. Currently, only correctional officers are required to enforce these provisions. It would also remove language specifically allowing correctional officers to pursue and apprehend escapees, but would add language allowing them the authority to execute any process necessary to their duty.

Finally, the bill would remove the statutory requirement that a warden have a college degree with a major in criminal justice or a related field.

The second proposed bill would repeal sections of code relating to Denmark State Hospital, which was closed in 1990. The Denmark Correctional Center was later built on the site of the hospital, but code sections referring to the hospital remain.

The third bill would repeal code relating to the operation of Huttonsville Correctional Center. As counsel explained, there is sufficient general language addressing the operation of correctional facilities, and a specific section for one facility is not required.

The fourth bill would remove language from the code relating to the operation of the penitentiary by the Commissioner of Public Institutions. As with the previous bill, counsel said other language in the code is general enough to address the operation of correctional facilities. The bill would also remove language related to the hiring of inmates as domestics and by contract.

December

Recommendations for Reintroduction & Passage

All four proposed bills were recommended for introduction and passage by the committee at its December meeting.

Also at its December meeting, the committee recommended several bills from the 2007 Regular Session for reintroduction and passage: Senate Bill 481, which would raise the barrel tax on nonintoxicating beer from \$5.50 to \$11 per barrel; Senate Bill 506 and House Bill 2548, both of which would implement a uniform bail schedule; Senate Bill 15 and House Bill 2250, both of which would create a retention pay raise for correctional officers; Senate Bill 459, which would allow correctional officers to retire with full benefits after 20 years of service; and House Bill 2475, which would exempt correctional officers' retirement income from state income tax. The committee also adopted a resolution requesting the Governor to maintain the pay raises given to correctional officers in last year's budget.

Two bills from last regular session were considered but laid over until January. These were House Bill 2889 and Senate Bill 20, both of which would require the agency that arrests a person to pay for the first 24 hours of incarceration for that inmate.

Also at its December meeting, the committee heard from several speakers about regional jail costs at the county level. A representative from the state Association of Counties said the focus for her association was not on reducing the per diem rate of incarceration, but reducing the number of prisoners.



The speaker provided the committee with statistics about the reasons people are in jail. Many, she said, were only there due to unpaid citations and court costs or for first-time driving under the influence. She said alternative sentencing for such nonviolent offenders would reduce jail population and costs. Such alternatives for first-time DUI offenders, she said, could include restrictive driving licenses that allow offenders to drive to work and treatment classes. As an example, she cited Ohio's use of special license plates indicating someone has been convicted of DUI.

Another proposition of the Association of Counties was making the arresting entity pay for the first 24 hours of incarceration. The mayor of Charleston, speaking on behalf of the West Virginia Municipal League, argued against such a requirement. He noted that counties have traditionally had to underwrite the costs of jails. He said that part of the fines and fees paid on citations already go to pay for jails. He also pointed out that the cities do pay the cost of incarceration when enforcing municipal laws.

The mayor also said that most of the money from property taxes that goes to a county comes from people living in municipalities. If counties are going to make cities pay the jail bill, he said, they should allow cities to keep more property tax revenue.

Technology, Joint Committee on

**November 2007
Legislature's Web site, State Web Portal**

A representative from the Legislature's Reference and Information Center gave a presentation to the committee about the new ideas and additions to the WV Legislature's web site regarding the July/August 2007 edition of the National Conference of State Legislatures' magazine "State Legislatures" featuring an article "25 Great Ideas Worth Stealing". West Virginia was named in that article for using RSS feeds. These feeds allow people to subscribe to and be notified when certain topics are updated and posted to the Legislature's web site.

A representative from the Legislative Automation System Division (LASD) gave a presentation about our new phone system. LASD is removing our existing telephone system and replacing it with a Voice Over IP (VoIP) telephone system. Voice Over IP is the transmission of voice through the internet or computer network.

The Governor's Office of Technology presented an example of a new design to their web portal. They are trying to make

the page friendlier for their users. Their goal is they want their users to access more information with fewer clicks of their mouse.

**December 2007
Geographical Information Systems**

West Virginia Association of Geospatial Professionals gave a presentation to the committee about mapping the state of West Virginia using Geographical Information System (GIS) technology. GIS is a computer-based system for capture, storage, retrieval, analysis and display of geographical data. This association wants to help establish a governing body from all state government agencies that are key participants in GIS. This body would create policies and procedures for all state agencies to follow while each agency creates its GIS database. These policies and procedures would help prevent the creation of duplicate data and they would make sure when someone is accessing the data that person is looking at the most up to date information.

Veterans' Issues - Select Committee B

**November
West Virginia National Guard**

At its November meeting, the Adjutant General of the West Virginia National Guard gave an update of the Guard's current service. The general said that right now, 500 soldiers and airmen were serving in 26 countries, including an engineering company in Iraq destroying improvised explosive devices. In the last six years, he said, more than 6,000 guardsmen from West Virginia have been deployed to war zones. Many of them are on their second rotation, with some on their third.

Despite having several troops overseas, the West Virginia National Guard, the general noted, is well above full strength. The state's Army National Guard was at 122 percent of full strength, while the Air National Guard was at 108 percent. He said the state's strength and readiness was the best in the nation.

The general expressed thanks to the soldiers' families and employers for their support. He said many employers in the state still provide benefits for on-duty soldiers and their families, even when they are not required to do so.

The committee also heard from a representative of Thanks! Plain and Simple, a group that specializes in supporting veterans and troops from West Virginia. The speaker told the committee about the organization's latest activities and future goals.



Interim Highlights

Phase I of the group's plan consists of "We Value You!" objectives. This phase consists of 12 projects meant to expand community engagement of the state's military men and women.

This phase includes an annual Thanks! Plain and Simple event, the speaker said. The purpose of the event, she said, is to honor the state's veterans and troops while showcasing West Virginia talent. Another part of Phase I is to push for a national monument honoring mothers. Veterans and return troops have been involved with helping that effort, the speaker said. This provides a high profile for veterans in the state helping with a national effort.

Other parts of the group's efforts include collecting stories of women who worked in factories during World War II. Another major initiative is a petition to have a U.S. ship named for H. Woodrow "Woody" Williams, the state's only living Medal of Honor winner. Over 30,000 signatures have been obtained, the representative said.

Phase II of the group's plan is Veterans in Transition and Leadership (VITAL) at Home. The goal of this project is to help returning veterans successfully make the transition into their communities. VITAL at Home, the speaker said, hopes to highlight the leadership and management potential of new veterans. The group also hopes to improve West Virginia's image by making VITAL at Home a nationally recognized program.

The committee also heard from Woody Williams himself. Williams praised Thanks! Plain and Simple for the work they have done for West Virginia veterans. He also spoke in support of a national monument to mothers, especially those who have given a son or daughter to the military. Additionally, he thanked the Legislature for the adoption during the 2007 Regular Session of Senate Concurrent Resolution 43, which requested Congress to erect such a monument in West Virginia.

A representative from the state Division of Veterans Affairs updated the committee on the Veterans Nursing Home in Clarksburg, which took its first patient in early November. In addition, he said the division had completed a feasibility study for a proposed state-run veterans' cemetery. After assessing costs, he said, it would not be necessary to offer a second lottery scratch-off game to fund the cemetery.

December

West Virginia Homeless Veterans Reintegration Program Made possible through a grant from the US Department of Labor to Volunteers of America, the WV Homeless Veterans

Reintegration Program (HVRP) was established in West Virginia in FY 2004-2005. A spokesman for the program addressed lawmakers of the Veterans Committee to explain the program and list some of its successes in an effort to secure some annual funding from the state of West Virginia.

The reintegration program provides outreach, needs assessment, case management, employment counseling, job training/job skills enhancement, job placement and transportation to homeless veterans in 14 rural West Virginia counties. In working with the group, other services provided include shelter, transitional housing, food, clothing, household items, alcohol and drug abuse treatment, health care, mental health counseling and treatment. Self-sufficiency is the ultimate goal for each homeless veteran engaged, according to the spokesman.

In the organization's first year, 108 homeless veterans were placed into full time jobs paying an average of \$9.60 an hour.

The group "fills in the gaps" regarding veteran reintegration. It is seeking to purchase a mobile health van to help with transportation for veterans who are not in the vicinity of veterans' health centers. An annual budget provided through the state would fund the group, consisting of medics who would work with VA doctors via telecommunication devices.

A start-up cost of approximately \$365,000 and \$250,000 on a yearly schedule would allow the program to have long-term sustainability. Federal grants are becoming less available and competition from large metropolises puts West Virginia in a precarious perch regarding support for veterans in rural sections of the state. And while the state does have long-term treatment facilities, WVHVRP would like to provide "treatment in the field."

Also addressing the committee was a presentation from a veteran describing his perspective on helping homeless vets. He told lawmakers the most difficult part was getting veterans to participate in established programs because many have alcohol and substance abuse problems and requirements to participate in the programs are too stringent for some individuals.

Discussions were also conducted on providing scholarships for individuals going into social work and clinical psychology studies. Lawmakers were told no statutory changes were necessary and the Vice Chancellor for Health Sciences could add, "Other disciplines identified as shortage fields." Getting these professionals into rural areas continues to be a problem simply because of a lack of job opportunities in the countryside.



Lawmakers continue to address rehabilitative services for vets.

State Water Resources,
Joint Legislative Oversight Commission on

**November
Water Survey**

The DEP Director of Water and Waste Management spoke to the committee members regarding the need for reinstating the water survey and to reauthorize the collection of water data that was first passed in 2004 through the WV Water Resources Protection Act.

After this summer's past drought conditions and water shortages, several water rights conflicts are being placed in the spotlight. West Virginia needs to be prepared if the situation worsens by collecting data on the state's current water levels.

In order to achieve thorough data, the DEP estimated the annual costs to be between \$6,000 and \$5 million. The continuation of the Conservation Agency's county water assessments would cost \$350,000 per county. The DEP also requests a water management plan to be required in the next five years and also require county boards to take part.

More monitors in water wells and stream gauges are also lacking in the state.

**December
Proposed Legislation**

Legislative counsel presented the committee with proposed legislation which would authorize the continuation of the water resources survey, as well as establish a water resource planning and development council and allow the establishment of critical water resources areas and plans during the December interim meeting.

Various questions and concerns were presented to counsel by committee members. The committee decided to hold the bill over until next month's interim meeting for the purpose of further changes be made to the bill by counsel.

Workforce Investment for Economic Development,
Legislative Oversight Commission on

**November
WorkForce Investment Boards**

In its continuing studies of regional investment boards, lawmakers heard from the Director of WORKFORCE West

Virginia. The director noted concerns with on-going issues regarding a particular region but also said all parties are working collectively. He indicated the region's rapid population growth coupled with diverse demographics should be entered into the communications equation.

The WORKFORCE statewide director told legislators he believes the integration of workforce data could be made better in the future. He suggested the program to help workers and employers be conjoined with more data from state agencies, which would include certifications and degrees available in areas of the state. An improved tracking system for placing workers with the appropriate jobs and programs could be a boon to developing each area's economy if WV WORKFORCE had access to workers' and employers' data.

The director also inquired about information available regarding PROMISE scholars. He talked about hiring interested individuals for summer employment. According to studies, the director told the committee, employers oftentimes hire summer staff full time upon graduation and wooing PROMISE scholars may prove an effective tool for local leaders. Because information on PROMISE recipients is considered proprietary and personal, higher education institutions do not release data. The director recommended providing an option for each scholar to release certain material with a waiver.

He also told lawmakers that while recent reports indicated some workforce offices might close, closures would be the result of federal funding cuts. To date, the state has been filling in the numbers but ultimately may not be able to continue to do so.

In the meantime, the state director is looking for the ways and means to come up with comprehensive one-stop centers perhaps located in a library, courthouse or other state funded facility. He believes technology will allow a center to reach across county lines to assist people in finding employment in West Virginia. He reminded lawmakers that people under 30 are more likely to use a computer in an innovative search as opposed to people over that age that prefer eye-contact when looking for work. ▲



January 6 - 8

2008 Interim Committee Meetings

Note: All dates are subject to change.

Interim Committee Information

For information on all Interim Committees, please visit West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Joint" link.

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Bill Status

For bill history information and full bill text of all Legislation from the 1993-2008 Regular and Special Sessions, please go to the West Virginia Legislature's Web site: <http://www.legis.state.wv.us> and select the "Bill Status" link.

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